

# Spain

## National Child Protection Legislation

### National Legislation

- Age of Child – **Under 18 years of age**  
[Civil Code of Spain](#)  
**Art. 315**  
Legal age begins upon turning eighteen. The date of birth shall be included in full for the calculation of legal age.
  
- Age of Consent – **16 years old**  
[Criminal Code of Spain](#)  
**Art. 183 bis**  
Anyone who, for sexual purposes, determines a child under sixteen years of age to engage in sexual behavior or witness acts of a sexual nature, even if the perpetrator does not participate in them, will be punished by a term of imprisonment of six months to two years.  
  
If he had witnessed sexual abuse, even if the author had not participated in it, a prison term of one to three years will be imposed.
  
- Age of Marriage – **18 years old**  
[Civil Code of Spain](#)<sup>1</sup>  
**Art. 46**  
The following persons may not marry:
  1. Non-emancipated minors.
  2. Persons who are already joined in marriage.
  
- Age of Criminal Responsibility – **18 years old**  
[Criminal Code of Spain](#)  
**Art. 19**  
Children under the age of eighteen will not be criminally liable under this Code. When a minor of that age commits a criminal act, he / she may be liable according to the provisions of the law that regulates the minor's criminal responsibility.

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- **Extraterritoriality**

- [Organic Law 1/2014](#)

- **Art. 4**

- Likewise, the Spanish jurisdiction will be competent to hear about the facts committed by Spaniards or foreigners outside the national territory susceptible to be typified, according to Spanish law, as one of the following crimes when the expressed conditions are met:

- k) Crimes against sexual freedom and indemnity committed on victims minors, provided that:
    1. the procedure is directed against a Spaniard;

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<sup>1</sup> A judge may waive, with just cause, the age requirement of 18, at the age of 14. However, in 2015 the Voluntary Jurisdiction Law was passed, raising the age of waiver to 16 with parental permission. See, <https://www.girlsnotbrides.org/child-marriage/spain/>.

2. the procedure is directed against a foreign citizen who resides usually in Spain;
  3. the procedure is directed against a legal entity, company, organization, groups or any other kind of entities or groupings of people who have their headquarters or registered office in Spain; or,
  4. the offense was committed against a victim who, at the time of commission of the facts, had Spanish nationality or habitual residence in Spain.
- m) Trafficking in human beings, provided that:
1. the procedure is directed against a Spaniard;
  2. the procedure is directed against a foreign citizen who resides usually in Spain;
  3. the procedure is directed against a legal entity, company, organization, groups or any other kind of entities or groupings of people who have their headquarters or registered office in Spain; or
  4. the offense was committed against a victim who, at the time of commission of the facts, had Spanish nationality or habitual residence in Spain, as long as the person to whom the commission of the criminal act is imputed is in Spain.
- **Dual Criminality**

[Criminal Procedure Code of Spain](#)

**Art. 824**

The Prosecutors of the Hearings and the Supreme Court, each in its case and place, will request that the Judge or Court propose to the Government that it request the extradition of the accused or convicted by final judgment, when it is appropriate according to law.

**Art. 825**

In order for extradition to be requested or proposed, it will be a necessary requirement that a reasoned order of imprisonment or a final judgment has been issued against the defendants referred to.

**Art. 826**

Only extradition may be requested or proposed:

1. Of the Spaniards who, having committed crimes in Spain, have taken refuge in a foreign country.
2. Of the Spaniards who having attacked abroad against the external security of the State, would have taken refuge in a country other than the one in which they committed crimes.
3. Of the foreigners who should have been tried in Spain, they would have taken refuge in a country other than their own.

**Art. 827**

The extradition request will proceed:

1. In the cases that are determined in the Treaties in force with the power in whose territory the individual claimed was found.
2. In the absence of a treaty, in cases in which extradition proceeds according to the written or customary law in force in the territory to whose nation extradition is requested.
3. In the absence of the two previous cases, when the extradition is appropriate according to the principle of reciprocity.

**Art. 828**

The Judge or Court that knows the case in which the accused absent in foreign territory was prosecuted will be the competent one to request his extradition.

[Criminal Code of Spain](#)

**Art. 190**

The sentence of a foreign Judge or Court, imposed for crimes included in this chapter, will be equated to the judgments of the Spanish Judges or Courts for the purposes of the application of the aggravating circumstance of recidivism.

▪ **Mandatory reporting requirements**

[Criminal Code of Spain](#)

**Art. 191**

1. To proceed for the crimes of assault, harassment or sexual abuse, it will be necessary to report the aggrieved person, his legal representative or complaint from the Public Prosecutor's Office, which will act by weighing the legitimate interests in presence. When the victim is a minor, an incapacitated person or a destitute person, the complaint of the Public Prosecutor will suffice.
2. In these crimes the forgiveness of the offended party or the legal representative does not extinguish the criminal action or the responsibility of that class.

**Art. 195**

1. Anyone who does not help a person who is helpless and in serious and manifest danger, when he or she can do so without their own risk or that of third parties, will be punished with a fine of three to twelve months.
2. The same penalties apply to one who prevents assistance from being provided, does not urgently demand the help of others.
3. If the victim was injured accidentally by one who omitted assistance, the penalty shall be imprisonment from six months to 18 months, and if the accident is due to imprudence, the prison term of six months to four years.

**Art. 196**

The professional who, being obliged to do so, denies health care or abandons health services, when the denial or abandonment is a serious risk to the health of the people, will be punished with the penalties of the preceding article in its upper half and with the of special disqualification for employment or public office, profession or trade, for a period of six months to three years.

**Art. 450**

1. Whoever, being able to do so with his immediate intervention and without his own or someone else's risk, does not impede the commission of an offense that affects the persons in his life, integrity or health, liberty or sexual freedom, will be punished with the prison sentence from six months to two years if the offense was against life, and the fine from six to twenty-four months in the other cases, unless the unimpeded crime had equal or less penalty, in which case the lower penalty will be imposed in degree to that of the former.
2. The same penalties will be incurred by one who, being able to, does not go to the authority or its agents so that they prevent a crime of those foreseen in the previous section and of whose next or present commission has notice.

### Code of Medical Duty and Obligation

#### **Art. 30**

1. Professional secrecy should be the rule. However, the doctor may reveal the secret exclusively to whom he/she has to, within reasonable limits, with the advice of the College, if necessary, in the following cases:
  - a. Notifiable diseases.
  - b. Certificates of birth and death.
  - c. If silence could result in injury for the patient or for others or in collective danger.
  - d. When the doctor is unfairly harmed by secrecy and the patient allows such a situation.
  - e. In case of abuse, especially in children, the elderly and mentally disabled or sexual assault.
  - f. When the doctor is called by the College to testify in disciplinary matters.
  - g. Although the patient authorizes it, the doctor will try to keep the secret due to the importance of the confidence of society in professional confidentiality.
  - h. By law:
    1. In the part of injuries, every doctor is obliged to send to the judge when attending an injured.
    2. When acting as expert, inspector, medical examiner, coroner, or the like.
    3. Upon the request on trial for alleged offense, which needs the contribution of the patient's medical history, the doctor will inform the judge who is ethically obligated to professional secrecy and he/she will only provide the necessary data for that specific case.

#### ▪ **Obligations of Educational Institutions**

### Organic Law 1/1996, of January 15, on the Legal Protection of Minors, of partial modification of the Civil Code and the Law of Civil Procedure

#### **Art. 13 – Obligations of citizens and duty of reserve**

1. Any person or authority and especially those who by their profession or function detect a situation of abuse, risk or possible helplessness of a minor, will inform the authority or its closest agents, without prejudice to provide immediate assistance precise.
2. Any person or authority that is aware that a child is not in school or does not attend school regularly and without justification, during the mandatory period, must inform the competent public authorities, who will take the necessary measures to your schooling.
3. The authorities and the persons who by their profession or function know the case will act with due reserve.

In the proceedings, unnecessary interference in the child's life will be avoided.
4. Any person who had news, through any source of information, of an act that could constitute an offense against the freedom and sexual indemnity, of trafficking in human beings, or exploitation of minors, will have the obligation to inform of the Public Prosecutor's Office without prejudice to the provisions of the criminal procedure legislation.
5. It will be a requirement for access and exercise to professions, trades and activities that involve regular contact with minors, not having been convicted by a final sentence for an offense against freedom and sexual indemnity, which includes sexual assault and abuse, harassment sexual, exhibitionism and sexual provocation, prostitution and sexual exploitation and corruption of minors, as well as trafficking in human beings. To this end, whoever seeks access to such professions, trades or activities must prove this circumstance by providing a negative certification from the Central Registry of sex offenders.

- **Prohibition to hold certain positions**

[Criminal Code of Spain](#)

**Art. 48**

1. The deprivation of the right to reside in certain places or go to them prevents the convicted person from residing or going to the place where he committed the crime, or to the one in which the victim or his family resides, if they are different...
2. The prohibition of approaching the victim, or those of family members or other persons determined by the judge or court, prevents the prisoner from approaching them, wherever they may be, as well as approaching their home, their places of work and any other that is frequented by them, being suspended, with respect to the children, the regime of visits, communication and stay that, if applicable, has been recognized in a civil judgment until the total fulfillment of this penalty.
3. The prohibition to communicate with the victim, or with those of his family or other persons determined by the judge or court, prevents the convicted person from establishing with them, by any means of communication or computer or telematic means, written, verbal or visual contact.
4. The judge or court may agree that the control of these measures is carried out through electronic means that allow it.

**Art. 83<sup>2</sup>**

1. The judge or court may condition suspension to comply with the following prohibitions and duties when it is necessary to avoid the danger of committing new crimes, without imposing duties and obligations that are excessive and disproportionate:
  - 1.<sup>a</sup> Prohibition of approaching the victim or those of relatives or other persons determined by the judge or court, their homes, their workplaces or other places usually frequented by them, or communicating with them by any means. The imposition of this prohibition will always be communicated to the persons in relation to whom it is agreed.
  2. Prohibition to establish contact with specific persons or with members of a specific group, when there are indications that allow to suppose that such subjects can provide the occasion to commit new crimes or incite them to do so.
  3. Keep your place of residence in a certain place with a prohibition to leave or temporarily absent without the authorization of the judge or court.
  4. Prohibition of residing in a particular place or going to it, when they can find the occasion or reason to commit new crimes.
  5. To personally appear with the periodicity that is determined before the judge or court, police dependencies or service of the administration that is determined, to inform of their activities and justify them.
  - 6.<sup>a</sup> Participate in training programs, labor, cultural, road safety, sexual education, environmental protection, animal protection, equal treatment and non-discrimination, and other similar.
  7. To participate in programs of detoxification to the consumption of alcohol, toxic drugs or narcotic substances, or to treat other addictive behaviors.
  8. Prohibition of driving motor vehicles that do not have technological devices that condition their ignition or operation to the previous verification of the physical conditions of the driver, when the subject has been convicted of a crime against road safety and the measure is necessary to prevent the possible commission of new crimes.

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<sup>2</sup> The numbering in this section follows that in the original Criminal Code.

9. To comply with the other duties that the judge or court deems appropriate for the social rehabilitation of the convicted person, subject to the latter's agreement, provided that they do not violate their dignity as a person.
2. In the case of offenses committed against the woman for whoever or has been her spouse, or for whoever is or has been bound to her by a similar relationship of affectivity, even without coexistence, the prohibitions and duties indicated in the 1st, 4th and 6th rules of the previous section.
3. The imposition of any of the prohibitions or duties of the 1st, 2nd, 3rd, or 4th rules of section 1 of this article will be communicated to the State Security Forces, which will ensure for its compliance. Any possible breach or relevant circumstance to assess the dangerousness of the prisoner and the possibility of future commission of new crimes, will be immediately communicated to the Public Prosecutor and to the judge or court of execution.
4. The control of compliance with the duties referred to in the 6th, 7th and 8th rules of section 1 of this article will correspond to the services of management of penalties and measures.

#### **Art. 107**

The Judge or Court may decree reasonably the measure of disqualification for the exercise of a particular right, profession, trade, industry or trade, position or employment, for a period of one to five years, when the subject has committed abuse of that exercise, or in relation to it, a criminal act, and when from the assessment of the concurrent circumstances the danger of re-committing the same crime or similar crimes can be deduced, provided that it is not possible to impose the corresponding penalty for being in any of the situations foreseen in numbers 1, 2 and 3 of article 20.

#### **Art. 192**

1. Those sentenced to imprisonment for one or more crimes included in this Title shall also be subject to the measure of supervised release, which shall be executed after the penalty of deprivation of liberty. The duration of this measure will be five to ten years, if one of the crimes is serious, and from one to five years if it is one or more less serious crimes. In the latter case, in the case of a single offense committed by a primary offender, the court may or may not impose the measure of supervised release in response to the minor danger of the perpetrator.
2. The relatives, guardians, caregivers, teachers, or any other person in charge of fact or law of the minor or person of limited capacity, who act as authors or accomplices in the perpetration of the crimes included in this Title, will be punished with the penalty that corresponds to them, in their upper half.

This rule will not be applied when the circumstance contained therein is specifically contemplated in the criminal type in question.
3. The judge or court may also reasonably impose the penalty of deprivation of parental authority or the penalty of special disqualification for the exercise of the rights of parental authority, guardianship, or foster care, for a period of six months to six years, and the penalty of disqualification for employment or public office or exercise of the profession or trade, for the time of six months to six years. Those responsible for the commission of any of the crimes of Chapters II bis or V will be imposed, in any case, and without prejudice to the penalties that correspond in accordance with the preceding articles, a penalty of special disqualification for any profession or job, proportionally to the seriousness of the crime, the number of crimes committed and the circumstances of the convicted person.

**Art. 196**

The professional who, being obliged to do so, denies health care or abandons the health services, when the denial or abandonment is a serious risk to the health of the people, will be punished with the penalties of the preceding article in its upper half and with the of special disqualification for employment or public office, profession or trade, for a period of six months to three years.

- **Employment Law**

[Criminal Code of Spain](#)

**Art. 183 – Abuses and sexual assaults on children under sixteen**

5. In all the cases foreseen in this article, when the culprit has prevailed of its condition of authority, agent of this one or public official, it will be imposed, in addition, the penalty of absolute disqualification of six to twelve years.

- **Criminal Law - Defamation**

[Criminal Code of Spain](#)

**Art. 208**

It is injury action or expression that injure the dignity of another person, undermining their reputation or attacking their own estimation.

Only insults that, by their nature, effects and circumstances, are considered as serious by the public concept, without prejudice to the provisions of section 4 of article 173, will constitute a crime.

The insults that consist in the imputation of facts will not be considered serious, except when they have been carried out with knowledge of their falseness or reckless disregard for the truth.

**Art. 209**

Serious insults made with publicity will be punishable by a fine of six to fourteen months and, in another case, by a penalty of three to seven months.

**Art. 210**

The defendant of insult will be exempt from responsibility proving the truth of the accusations when they are directed against public officials on facts concerning the exercise of their positions or referred to the commission of administrative infractions.

- **Private Fostering**

No information found

## Sexual Offenses Against Children

### Criminal Code of Spain

#### **Art. 127 bis**

1. The judge or court shall also order the confiscation of property, effects and profits belonging to a person condemned for any of the following offenses when it resolves, based on well-founded objective evidence, that the property or effects come from a criminal activity, and its legal origin is not proven:
  - a) Crimes of trafficking in human beings.
  - b) Crimes related to prostitution and sexual exploitation and corruption of minors and crimes of sexual abuse and aggression against children under sixteen years of age.

#### **Art. 177 bis**

1. Will be punished with the penalty of five to eight years of imprisonment as incarceration of human beings who, whether in Spain, from Spain, in transit or to it, using violence, intimidation or deception, or abusing of a situation of superiority or necessity or vulnerability of the national or foreign victim, or through the delivery or receipt of payments or benefits to obtain the consent of the person who possesses control over the victim, captures, transports, transfers, welcomes, or receives, including the exchange or transfer of control over those persons, for any of the following purposes:
  - a) The imposition of forced labor or services, slavery or practices similar to slavery, servitude or begging.
  - b) Sexual exploitation, including pornography.
  - c) Exploitation to carry out criminal activities.
  - d) The extraction of their bodily organs.
  - e) The celebration of forced marriages.There is a situation of need or vulnerability when the person in question has no other alternative, real or acceptable, than to submit to abuse.
2. Even if none of the means mentioned in the previous section is used, human trafficking shall be considered any of the actions indicated in the previous section when it is carried out with respect to minors for the purpose of exploitation.
3. The consent of a victim of trafficking in human beings will be irrelevant when one of the means indicated in the first section of this article has been resorted to.
4. The penalty superior in degree to that provided in the first section of this article shall be imposed when:
  - a) the life or physical or mental integrity of the persons subject to the crime was endangered;
  - b) the victim is especially vulnerable due to illness, gestational status, disability or personal situation, or is a minor.If more than one circumstance occurs, the penalty will be imposed in its upper half.
5. The penalty superior to that provided in section 1 of this article shall be imposed and absolute disqualification from six to twelve years to those who carry out the facts, prevailing over their status as authority, agent or public official. If, in addition, any of the circumstances provided in section 4 of this article concur, the penalties in its upper half shall be imposed.

#### **Art. 178**

Whoever attempts against the sexual freedom of another person, using violence or intimidation, will be punished as being responsible for sexual assault with imprisonment from one to five years.



**Art. 179**

When the sexual assault consists of sexual intercourse by vaginal, anal or oral route, or introduction of bodily members or objects by one of the first two routes, the person responsible will be punished as a prisoner of rape with a prison sentence of six to 12 years.

**Art. 180**

1. The above conducts will be punished with prison sentences of five to ten years for the aggressions of article 178, and twelve to fifteen years for those of article 179, when one of the following circumstances occurs:
  - 1) When the violence or intimidation exercised have a particularly degrading or humiliating character.
  - 2) When the facts are committed by the joint performance of two or more people.
  - 3) When the victim is especially vulnerable, due to age, illness, disability or situation, except as provided in Article 183.
  - 4) When, for the execution of the crime, the person responsible has a relationship of superiority or kinship, for being ascendant, descendant or brother, for nature or adoption, or related, with the victim.
  - 5) When the author makes use of weapons or other equally dangerous means, capable of causing death or any of the injuries provided for in articles 149 and 150 of this Code, without prejudice to the penalty that may correspond for death or injury caused.
2. If two or more of the above circumstances occur, the penalties provided in this article shall be imposed in their upper half.

**Art. 181**

1. He who, without violence or intimidation and without consent, perform acts that attempt against the freedom or sexual indemnity of another person, will be punished, as responsible for sexual abuse, with the penalty of imprisonment of one to three years or fine from eighteen to twenty-four months.
2. For the purposes of the previous section, non-consensual sexual abuse is considered to be that which is executed on persons who are deprived of meaning or whose mental disorder is abused, as well as those committed by annulling the will of the victim through the use of drugs, drugs or any other natural or chemical substance suitable for this purpose.
3. The same penalty shall be imposed when the consent is obtained by prevailing the person responsible for a situation of manifest superiority that limits the freedom of the victim.
4. In all the above cases, when the sexual abuse consists of sexual intercourse by vaginal, anal or oral route, or introduction of bodily members or objects by one of the first two routes, the person responsible will be punished with the imprisonment of four to ten years.
5. The penalties indicated in this article shall be imposed in their upper half if the circumstance 3A or 4A, of those provided for in section 1 of article 180 of this Code.

**Art. 182**

1. Anyone who, acting as a deceiver or abusing a recognized position of trust, authority or influence over the victim, engages in acts of a sexual nature with a person over sixteen years of age and under eighteen years of age, shall be punished with imprisonment of one to three years.
2. When the acts consist of sexual intercourse by vaginal, anal or oral route, or introduction of bodily members or objects by one of the first two routes, the penalty shall be imprisonment of two to six years. The penalty will be imposed in its upper half if the 3rd circumstance, or the 4th one, of those provided in article 180.1 of this Code.

**Art. 183**

1. The person who performs acts of a sexual nature with a child under sixteen years of age shall be punished as being responsible for the sexual abuse of a minor with a prison sentence of two to six years.
2. The person who performs acts of a sexual nature with a child under sixteen years of age shall be punished as being responsible for the sexual abuse of a minor with a prison sentence of two to six years.
3. When the acts are committed using violence or intimidation, the person responsible will be punished for the crime of sexual aggression against a minor with the penalty of five to ten years in prison. The same penalties will be imposed when violence or intimidation compels a child under sixteen to participate in acts of a sexual nature with a third party or to perform them on himself.
4. When the attack consists of vaginal, anal or oral sexual intercourse, or vaginal or anal penetration by other body parts or objects, the person responsible shall be punished with imprisonment of eight to twelve years, in the case of section 1, and with the penalty of twelve to fifteen years, in the case of section 2.
5. The conducts foreseen in the three previous sections will be punished with the corresponding prison sentence in its upper half when any of the following circumstances exist:
  - a. When the victim's scant intellectual or physical development, or the fact of having a mental disorder, would have placed her in a situation of total helplessness and, in any case, when she is less than four years old.
  - b. When the facts are committed by the joint performance of two or more people.
  - c. When the violence or intimidation exercised has a particularly degrading or humiliating character.
  - d. When, for the execution of the offense, the person responsible has prevailed in a relationship of superiority or kinship, as an ascendant, or brother, by nature or adoption, or related, with the victim.
  - e. When the guilty party has endangered, in a fraudulent manner or due to serious imprudence, the life or health of the victim.
  - f. When the offense has been committed within an organization or a criminal group that is engaged in carrying out such activities.
6. In all the cases foreseen in this article, when the culprit has prevailed of its condition of authority, agent of this one or public official, it will be imposed, in addition, the penalty of absolute disqualification of six to twelve years.

**Art. 183 bis**

Anyone who, for sexual purposes, determines a child under sixteen years of age to engage in sexual behavior or witness acts of a sexual nature, even if the perpetrator does not participate in them, will be punished by a term of imprisonment of six months to two years.

If he had witnessed sexual abuse, even if the author had not participated in it, a prison term of one to three years will be imposed.

**Art. 183 ter**

1. Whoever, through the Internet, the telephone or any other technology of information and communication, contacts a child under the age of sixteen and proposes to arrange a meeting with him or her in order to commit any of the offenses described in articles 183 and 189, provided that such proposal is accompanied by material acts aimed at rapprochement, will be punished with one to three years in prison or a fine of twelve to twenty-four months, without prejudice to the penalties corresponding to the crimes committed in their case. Penalties will be imposed on their upper half when the approach is obtained through coercion, intimidation or deception.

2. Whoever, through the internet, telephone or any other information and communication technology, contacts a child under sixteen years of age and performs acts aimed at tricking the child to provide pornographic material or show pornographic images that represent a minor or appear to represent a minor, will be punished with a prison sentence of six months to two years.

**Art. 183 quater**

The free consent of the child under sixteen years old will exclude criminal responsibility for the offenses set forth in this Chapter, when the author is a person close to the child by age and degree of development or maturity.

**Art. 184**

1. Whoever requests favors of a sexual nature, for himself or for a third party, within the scope of an employment relationship, teaching or service provision, continued or habitual, and with such behavior will provoke the victim an objective and seriously intimidating situation, hostile or humiliating, will be punished, as the author of sexual harassment, with the penalty of imprisonment of three to five months or a fine of six to 10 months.
2. If the person guilty of sexual harassment committed the act by prevailing a situation of superior work, teaching or hierarchical, or with the express or tacit announcement of causing the victim a bad connection with the legitimate expectations that the latter may have within the scope of the indicated relationship, the penalty will be imprisonment of five to seven months or a fine of 10 to 14 months.
3. When the victim is especially vulnerable, due to age, illness or situation, the penalty shall be imprisonment of five to seven months or a fine of 10 to 14 months in the cases provided for in section 1, and imprisonment of six months. months to one year in the cases foreseen in section 2 of this article.

**Art. 185**

Any person who executes or causes another person to perform acts of obscene exhibition before minors or persons of limited capacity shall be punished by imprisonment from six months to one year or a fine of 12 to 24 months.

**Art. 186**

Whoever, by any direct means, sells, disseminates or exhibits pornographic material among minors or persons of limited capacity, will be punished by imprisonment from six months to one year or a fine of 12 to 24 months.

**Art. 187**

1. Who, using violence, intimidation or deception, or abusing a situation of superiority or necessity or vulnerability of the victim, determine a person of legal age to exercise or maintain in prostitution, will be punished with prison sentences from two to five years and a fine of twelve to twenty-four months.

The penalty of imprisonment of two to four years and a fine of twelve to twenty-four months will be imposed on anyone who profits by exploiting the prostitution of another person, even with the consent of the same. In any case, it will be understood that there is exploitation when any of the following circumstances occur:

- a. That the victim is in a situation of personal or economic vulnerability.
  - b. That it be imposed for its exercise heavy, disproportionate or abusive conditions.
2. The penalties provided for in the preceding paragraphs shall be imposed in their upper half, in their respective cases, when any of the following circumstances occur:

- a. When the guilty party has taken advantage of his status as an authority, agent or public official. In this case, the penalty of absolute disqualification from six to twelve years will also be applied.
  - b. When the culprit belongs to an organization or criminal group that is dedicated to the realization of such activities.
  - c. When the guilty party has endangered, in a willful manner or due to serious imprudence, the life or health of the victim.
3. The penalties indicated will be imposed in their respective cases, without prejudice to those that correspond to the aggressions or sexual abuse committed on the prostituted person.

#### **Art. 188**

1. The one that induces, promotes, favors or facilitates the prostitution of a minor or a person with a disability in need of special protection, or profits from it, or otherwise exploits a minor or a person with a disability for these purposes, will be punished with imprisonment from two to five years and a fine of twelve to twenty-four months.
2. If the victim was under sixteen years of age, the prison term of four to eight years and a fine of twelve to twenty-four months will be imposed.
3. If the events described in the previous section were committed with violence or intimidation, in addition to the penalties provided for, the penalty of imprisonment from five to ten years will be imposed if the victim is under sixteen years of age, and the prison sentence from four to six years in the other cases.
4. The penalties superiors in degree to those foreseen in the previous sections will be imposed, in their respective cases, when any of the following circumstances concur:
  - a. When the victim is especially vulnerable, due to his age, illness, disability or situation.
  - b. When, for the execution of the offense, the person responsible has prevailed in a relationship of superiority or kinship, as an ascendant, descendant or brother, by nature or adoption, or related, with the victim.
  - c. When, for the execution of the offense, the responsible party would have validated of its condition of authority, agent of this or public official. In this case, an absolute disqualification penalty of six to twelve years will also be imposed.
  - d. When the guilty party has endangered, in a willful manner or due to serious imprudence, the life or health of the victim.
  - e. When the facts have been committed by the joint action of two or more people.
  - f. When the guilty party belongs to an organization or association, even of a transitory nature, that is dedicated to the realization of such activities.
5. Whoever requests, accepts or obtains, in exchange for a remuneration or promise, a sexual relationship with a minor or a person with a disability in need of special protection, will be punished with a penalty of one to four years in prison. If the child has not reached the age of sixteen, a penalty of two to six years of imprisonment will be imposed.
6. The penalties indicated will be imposed in their respective cases, without prejudice to the corresponding penalties for infractions against the freedom or sexual indemnity committed on minors and persons with disabilities in need of special protection.

#### **Art. 189**

1. He shall be punished with imprisonment from one to five years:
  - a. Whoever captures or uses minors or persons with disabilities in need of special protection for purposes or in exhibitionist or pornographic shows, both public and private, or for develop any kind of pornographic material, whatever its support, or finance any of these activities or make a profit with them.
  - b. Whoever produces, sells, distributes, exhibits, offers or facilitates the production, sale, diffusion or exhibition by any means of child pornography or in whose elaboration have been

- used persons with disabilities in need of special protection, or possess it for these purposes, even if the material had its origin abroad or was unknown.
2. For the purposes of this Title, it is considered child pornography or in the elaboration of which persons with disabilities in need of special protection have been used:
    - a. Any material that visually represents a minor or a person with a disability in need of special protection participating in a conduct sexually explicit, real or simulated.
    - b. Any representation of the sexual organs of a minor or person with a disability in need of special protection for primarily sexual purposes.
    - c. Any material that visually represents a person who appears to be a minor participating in a sexually explicit, real or simulated behavior, or any other representation of the sexual organs of a person who appears to be a minor, for primarily sexual purposes, unless the person who appears to be a minor turns out to be in fact eighteen or more years old at the time of obtaining the images.
    - d. Realistic images of a minor participating in a sexually explicit behavior or realistic images of the sexual organs of a minor, mainly for sexual purposes.
  3. Those who perform the acts provided for in section 1 of this article shall be punished with the penalty of imprisonment for five to nine years when any of the following circumstances occur:
    - a. When minors under sixteen are used.
    - b. When the facts have a particularly degrading or humiliating character.
    - c. When the pornographic material represents minors or persons with disabilities in need of special protection who are victims of physical or sexual violence.
    - d. When the guilty party has endangered, in a willful manner or due to serious imprudence, the life or health of the victim.
    - e. When the pornographic material is of notorious importance.
    - f. When the guilty party belongs to an organization or association, even of a transitory nature, that is dedicated to the realization of such activities.
    - g. When the person in charge is an relative, guardian, caregiver, teacher or any other person in charge, in fact, even provisionally, or by law, of the minor or person with a disability in need of special protection, or of any other member of his family who lives with him or another person who has acted abusing his recognized position of trust or authority.
    - h. When the aggravation of recidivism occurs.
  4. If the events referred to in letter a) of the first paragraph of section 1 have been committed with violence or intimidation, the penalty shall be imposed superior to that provided for in the previous sections.
  5. Whoever knowingly attends exhibitionist or pornographic shows in which minors or persons with disabilities in need of special protection participate, shall be punished with the penalty of six months to two years in prison.
  6. Whoever acquires or possesses child pornography for their own use or whose elaboration has been used persons with disabilities in need of special protection, will be punished with the penalty of three months to one year in prison or with a fine of six months to two years.  
The same penalty will be imposed on those who knowingly access child pornography or in whose preparation people with disabilities in need of special protection have been used, through information and communication technologies.
  7. Anyone who has under his or her authority, guardianship, or foster care a minor or a person with a disability in need of special protection and who, aware of his or her status of prostitution or corruption, does not do everything possible to prevent its continuation in such state, or does not go to the competent authority for the same purpose if it lacks means for the custody of the minor or person with disabilities in need of special protection, will be punished with the prison term of three to six months or a fine of six to twelve months.

8. The Public Prosecutor will promote the pertinent actions in order to deprive of the parental authority, guardianship, or foster care, as the case may be, to the person who commits any of the conducts described in the previous section.
9. The judges and courts will order the adoption of the necessary measures for the removal of web pages or Internet applications that contain or disseminate child pornography or in the elaboration of which persons with disabilities in need of special protection or, where appropriate, to block access to them to Internet users who are in Spanish territory.

These measures may be agreed on a precautionary basis at the request of the Public Prosecutor's Office.

#### **Art. 189 bis**

When, in accordance with the provisions of article 31 bis, a legal entity is responsible for the crimes included in this Chapter, the following penalties shall be imposed:

- a. A fine of three to five times the benefit obtained, if the crime committed by the individual has a prison sentence of more than five years.
- b. A fine of double to four times the benefit obtained, if the offense committed by the individual has a prison sentence of more than two years not included in the previous subsection.
- c. Fine of double to triple the benefit obtained, in the rest of the cases.

Given the rules established in article 66 bis, judges and courts may also impose the penalties set forth in letters b) to g) of section 7 of article 33.

#### **Art. 231**

1. The one who, being in charge of the upbringing or education of a minor or incapable person, will deliver it to a third party or to a public establishment without the consent of the person who entrusted it to him, or of the authority, failing that, will be punished with the penalty of a fine of six to twelve months.
2. If the life, health, physical integrity or sexual freedom of the minor or incapacitated person has been specifically jeopardized, the penalty of imprisonment from six months to two years shall be imposed.

### **Female Genital Mutilation (FGM)**

#### [Criminal Code of Spain](#)

#### **Art. 149**

1. The one that causes another, by any means or procedure, the loss or uselessness of a principal organ or member, or a sense, impotence, sterility, a serious deformity, or a serious somatic or psychic illness, will be punished with imprisonment from six to 12 years.
2. Anyone who causes another person to suffer any form of genital mutilation shall be punishable by imprisonment for a term of between six and twelve years. Where the victim is a minor or person of limited capacity, parental custody or foster care will be withdrawn for a period of four to ten year.